TRI Burden Reduction Stakeholder Briefing
October 19, 2004
Meeting Summary

EPA Presenters:
Mike Flynn
Mike Petruska
Kevin Donovan
Shelley Fudge
Paul Borst

EPA Attendees:
Elsa Bishop
Karen Brown
John Cooper
Evie Cummings
Steve DeVito
John Dombrowski
Marc Edmonds
Erin Koch
Kathleen Meir
Kevin Minoli
Michelle Price
Angela Suber
Cassandra Vail

Stakeholder Attendees:
Todd Abel, CCC
David Ailor, ACCCI/NOPA
William Allmond, National Association of Chemical Distributors
John Arnett, Copper and Brass Fabricators Council
Andrew Bopp, Society of Glass and Ceramic Decorators
Kevin Bromberg, U.S. Small Business Administration
Dr. Norbert Dee, National Petrochemicals and Refiners Association
Rick Deery, Resources Committee, House
Lisa Edouard, AF&PA
Julia Festa, AF&PA
Mary Catherine Fish, MCF Consulting, Inc.
Elizabeth Gaudio, National Federation of Independent Business
Jennifer, Giboon, National Association of Chemical Distributors
Jeff Gunnulfsen, SOCMA
Edward Herbert, National Ready Mixed Concrete Association
Steve Higley, Senate EPW Maj. Office
Joseph Johnson, SBA Advocacy
John King, American Petroleum Institute

Sean Moulton, OMB Watch
Andy Opperman, New Jersep DEP
Paul Orum, Working Group on Community Right-to-Know
Jane Powers, U.S. Department of Energy
Danielle Quist, House Government Reform – Sub Reg Affairs
Tiernan Sittenfeld, U.S. Public Interest Research Group
Ann Smith-Reiser, Analytical Services Corporation
Dean Scott, Bureau of National Affairs
George Sorvalis, Working Group on Community Right-to-Know
Bruce Steiner, American Iron and Steel Institutes
Derek Swick, American Petroleum Institute
Danielle Waterfield, Specialty Graphic Imaging Association
Lee Zeugin, Hunter and Williams; Edison Electric Institutes

Meeting Format and Process:

Introductory remarks were presented by: Mike Flynn, Director, Office of Information Analysis and Access, and Mike Petruska, Director, TRI Program Division. Formal presentations by EPA updating various aspects of TRI burden reduction were as follows (note: full versions of the meeting presentations can be found in the docket, and are important to understanding the questions and comments relative to these presentations as outlined in this meeting summary report):

1) Review of Overall Burden Reduction Strategy
Presenter: Kevin Donovan, U.S. EPA, TRI Program Division
Overview: An overview and status update on EPA's efforts towards TRI burden reduction was presented, including projected timeframes.
(filename: 1-overallburdredstrategy.pdf)

2) TRI Reporting Forms Modification Rule
Presenter: Shelley Fudge, U.S. EPA, TRI Program Division
Overview: An outline of a new proposal for TRI reporting forms modification was presented. This proposal supplements the burden reduction options as previously presented in the TRI burden reduction stakeholder dialogue white paper. This proposal includes removal or modifications to reporting for Part I, Sections 4.6, 4.8, 4.9, and 4.10, of the Form R and the Form A Certification Statement, and Part II, Sections 5.3.1.C, 7A.1b, 7A.1c, 7A.1d, 7A.1e, 7B, 7C, and 8.11 of the Form R.
(filename: 2-formsmodification.pdf)

3) TRI Program-Related Burden Reduction Options and Public Comment Summary
Presenter: Kevin Donovan, U.S. EPA, TRI Program Division
Overview: The burden reduction options as previously presented in the TRI burden reduction stakeholder dialogue white paper were outlined. A summary of comments received to date on each of the options was presented.
(filename: 3-burdredoptions.pdf)

4) Approach to Options Analysis
Presenter: Paul Borst, U.S. EPA, Analytical Support Branch, Environmental Analysis Division
Overview: An overview of completed and proposed TRI data analyses conducted in support of burden reduction options assessment was presented.
(filename: 4-optionsanalysis.pdf)

Following each presentation was a discussion period for audience questions and comments and EPA response to questions and comments. An additional discussion period for audience questions and comments on any of the presentations or aspects of burden reduction was given at the end of the day. A summary of all comments was presented back to the meeting attendees at the end of each discussion to ensure that audience comments had been accurately understood and recorded. The following sections of this meeting summary present the content of these discussion sessions, organized around the proposed TRI burden reduction options.

Audience members indicated that they had no additional questions or comments, and the meeting was closed. EPA indicated that further comments and suggestions on TRI burden reduction are welcomed in the future.

General Comments:

- In response to comments about potential new ideas for burden reduction, EPA responded that there are many EPA initiatives currently underway that are in line with the ideas received under the stakeholder dialogue, in particular regarding data collection and access, but are not formally being called burden reduction. These include:
    - Development of a new Form R for dioxins that will use TEQs (toxicity equivalencies).
    - An increasingly web-based approach to TRI reporting.
    - Enhancements to the TRI-ME software.
    - An overhaul of TRI explorer and Envirofacts.
    - Expanded presentation of context around TRI data.

- There were several comments on the use of range codes in general on multiple data elements on the Form R. These included:
    - Use of range codes leads to misleading data as reported in the public data release because the midpoint of the range is reported out. This furthers the misperception because use of range codes does not require precise estimates, but an actual quantity is reported and, also, the midpoint quantity is reported when an actual release or transfer of a quantity at the top or the bottom range may have occurred.
    - Use of this less accurate midpoint data is frustrating to data users. Use of range codes should be eliminated.

- More precise release data (versus less precise range reporting) is important to those in the impact area of releasing facilities. This is particularly important to locals surrounded by multiple TRI-reporting facilities.
- The imprecision of the data from range code use becomes cumulatively worse in the area of impact of multiple facilities and also over multiple years in making risk estimates.
- EPA reauthorized use of range codes in the 1990s.

- There were comments questioning the validity of apparent assumptions that have come out of the TRI burden reduction stakeholder process. The following is an assessment by the commenter of these perceived assumptions:
  - A small business does not necessarily indicate a small release.
  - A small release quantity does not necessarily indicate an unimportant release or low risk or harm because:
    - Small releases of highly toxic chemicals can present high risk or harm.
    - The potential risk is important to the local population impacted by the release. National release totals are not meaningful, the local risk is meaningful.
  - Zero releasers may have large waste streams.
  - Waste management activities such as recycling can have significant impacts, impacts are not just from releases. For example, recycling can cause serious risk or harm through worker exposure and many seriously-contaminated sites were created through recycling activities.
  - A number of proposed details of the burden reduction options give credit for or suggest eliminating reporting on recycling and energy recovery. Do not give incentives for recycling, instead, place more emphasis on encouraging source reduction. Source reduction can lead to significant financial savings versus recycling. The Pollution Prevention Act is about source reduction, and this is not getting enough consideration.
  - Use of range codes should be reduced or eliminated, not expanded.

- One commenter reported that his review of all of the comments to the TRI burden reduction options received through the stakeholder dialogue showed that 80% of comments were against moving forward with any TRI burden reduction that resulted in less information.

- One commenter questioned the current baseline estimate for TRI reporting burden, stating, for example, that credit is not given for the TRI-ME software which does reduce burden through pre-populating information from the previous years' forms, etc. EPA responded that the 2006 ICR will be accepting comments on this baseline.

- There was a suggestion that TRI training courses be given earlier in the year to allow facilities more time to prepare TRI reports. EPA responded that they need

to wait to initiate courses until they have received OMB approval for the new reporting year's forms and instructions.

- There was a suggestion that a check box be added to the TRI-ME software indicating that "We don't use underground injection wells and never have" in order to avoid having to pass through queries on this data element. EPA indicated that the incidence rate for reporting in this data element is less than one percent.

- There was a comment specific to the cement and limestone industry that very few limestone suppliers provide constituent information. While industry is not required to conduct laboratory analysis for TRI reporting, the lack of information from suppliers and this sector's belief that the AP-42 emission factors relative to their industry need updating has left them in a difficult situation. EPA has agreed to work further with this commenter outside of the context of the burden reduction stakeholder process.

Forms Modification:

General Comments/Questions:

- A question was posed as to how data such as RCRA i.d. would be obtained if there was nothing in FRS. EPA responded that there are multiple methods, such as an address matching procedure, to link to this data.
- A question was posed as to how a facility could report or correct errors if certain data elements are pulled from FRS instead of self-reported by the facility. EPA responded that they are developing a procedure to report such errors.
- Regarding a proposal for changing 7A.1d (on-site waste treatment efficiency) from a percentage to a range code, a question was posed as to how does this reduce burden? EPA and others responded that this lessens the required data collection and calculations, as a less precise estimation is needed, thus use of range codes does lessen burden.
- Regarding proposed changes to 7A.1d (on-site waste treatment efficiency) and 7B (energy recovery method used), a question was posed asking why wouldn't facilities need to know this information. EPA responded that these modifications were proposed in an effort to make things easier for reporting facilities.
- EPA indicated that one of the justifications for proposed removal or modification of certain data elements was lack of use. A few questions were posed asking if potential data users (both inside and outside of EPA) had been considered when removal or modification of certain Form R elements was proposed, for example those within EPA who look at effluent guidelines. EPA responded that while a formal workgroup was not required for this streamlined rule, EPA is working closely with a regional workgroup on the proposed forms modification rule and is carefully considering data users. EPA also indicated that how TRI data are used has been closely examined, with these results included in a TRI data use paper that is available on the EPA website.
- Relative to potential removal of the 8.11 checkbox, a few questions were posed as to why or how this optional pollution prevention information may be useful?

EPA responded that providing a way for facilities to report optional pollution prevention narratives is a statutory requirement of the Pollution Prevention Act. Others responded that valuable and innovative pollution prevention ideas would be highly useful to peer facilities.

Comments in Favor:

- A comment was made applauding EPA's effort to take a hard look at the Form R and modify or eliminate certain data elements.

Comments Opposed:
There were no comments in strong opposition to the proposed forms modification.

Option 1 (Higher Reporting Thresholds for Small Businesses):

General Comments:
There were no comments on this option other than those in favor and in opposition as outlined below.

Comments in Favor:

- One industry trade group representative indicated their strong favor for this option, in particular higher reporting threshold for small businesses.

Comments Opposed:

- One environmental group representative indicated their strong opposition to this option, stating that a small business does not mean a small or insignificant release.

Option 2 (Higher Reporting Thresholds for a Category of Facilities or a Class of Chemicals with Small Reportable Amounts):

General Comments:

- Aside from the comment on petroleum bulk stations below, it was indicated by one commenter that research on the TRI data did not identify any good candidate sectors for this option.
- There was discussion on different reporting requirements, such as threshold, for different TRI chemicals. Comments included:
    - EPA reported that there has been an on-going review of TRI chemicals in light of the criteria set forth for TRI chemicals. All chemicals evaluated to date meet the criteria. EPA further indicated that resources go towards evaluating and responding to petitions to de-list chemicals from TRI.
    - There was a comment that copper is only toxic in the ionic form, but that current reporting combines quantities of the elemental metal together with copper present as a copper compound. It was noted that a previous petition to de-list copper was denied by EPA.

- There was a suggestion that toxicity equivalencies (TEQs) be used for metals.
- There was a comment that there is no differentiation between chemicals with varying levels of toxicity in TRI reporting requirements. A response to this comment indicated that it is extremely difficult to assign comparative toxicity levels because of the need to rank or compare different toxic effects such as cancer versus birth defects.

Comments in Favor:

- One commenter indicated that petroleum bulk stations contribute to less than one-tenth of one percent of total TRI releases, and this means this sector shoulders a disproportionate share of reporting burden.

Comments Opposed:

There were no comments in strong opposition to this option.

Option 3 (Expanding Eligibility for the Form A Certification Statement):

General Comments:

- It was reported out by EPA and others present that the Form A Certification is widely underused, even when the Form A Certification eligibility has been met. A comment in response indicated that liability concerns prevent some facilities from using the Form A due to fear that they will make an error in determining eligibility, and will be at risk for an enforcement action for non-reporting (i.e., submitting a Form A when a Form R was required). One commenter suggested that there be equal enforcement for an error in determining Form A eligibility and a calculation error on a Form R.

Comments in Favor:

There were no comments in strong support of this option.

Comments Opposed:

There were no comments in strong opposition to this option.

Option 4 (Creating a New, "No Significant Change" Certification Statement):

General Comments:

- EPA indicated that data analysis for this option has focused on identifying the most appropriate proxy or metric for use in determining "No Significant Change" (NSC) that would not require full calculation of release and other waste

management quantities. Questions were posed regarding what correlational analyses have been conducted by EPA. EPA responded that:

  - Production ratio has been correlated with total releases and also production related waste.
  - All on-site versus off-site releases have been examined, as well as looking at combined on- and off-site releases by specific media.
  - Production related waste has been correlated with recycling plus energy recovery versus treatment plus disposal.

- EPA indicated that the data loss from the No Significant Change (NSC) option will be mitigated if the parameter selected for NSC determination serves as a good proxy for related data fields.
  - Several proxy ideas were put forth:
    - Use section 8.1, total releases. One commenter suggested that this parameter should only be used if the facility can state that there were no changes to waste management techniques used.
    - Use the sum of sections 8.1 – 8.7 (total production-related waste). It was suggested by one commenter that this could be effectively used for correlational analysis, but should not be used for NSC determination.
    - Use the production ratio.
    - Use a re-defined production ratio (that more closely corresponds with waste generation versus simply production level).
    - Give a choice of the above parameters for use as the proxy.
    - Use a combination of multiple parameters as the proxy.
    - Use a qualitative determination, such as "there was no change in the process at the facility."
- The following parameters were suggested by one commenter if this option is used:
  - Begin with allowing a baseline to three-year period for allowed use of this option, then increase this to five years.
  - Use five percent as the standard for "No Significant Change."
  - Use a production-ratio type metric, but ensure that it is strongly correlated with generation of wastes.
  - Do not allow this option for PBT chemicals.
- Another commenter suggested using a five percent change to total releases (8.1) in combination with a higher percentage allowance for changes in where the material is going (i.e., to which media). Relative to this comment, it was asked which matters more, on-site versus off-site or to which media the waste is released. EPA indicated that media was more important than on-site versus off-site.
- EPA indicated that the current definition for production ratio is more closely correlated with production of product versus generation of wastes. It was suggested that it may be useful to modify the definition of production ratio such that it does more closely correspond with waste generation, and then use this as the metric for the "No Significant Change" (NSC) option.

- One commenter suggested a "Form NSC De Minimis" for facilities with less than five pounds of total on-site releases in combination with less than a 20 percent change in total releases.

Comments in Favor:

- Two industry trade group representatives indicated their strong favor for this option.
- A suggestion was put forth that using the NSC option in combination with an enhanced Form A would provide effective burden reduction for the greatest number of facilities. This commenter indicated that the enhanced Form A should include extended eligibility, plus providing some release and other waste management quantities through use of range codes.

Comments Opposed:

- A cautionary comment was put forth that there should be a determination as to the accuracy of the baseline information before an NSC option is implemented. It was suggested that monitoring may be needed to replace or confirm use of existing published emission factors, as there was a study indicating that air releases may be underreported with use of emission factors.

Option 5 (Use of Range Reporting for Section 8 of the Form R):

There were no comments put forth specific to this option. There was a great deal of discussion on use of range codes in general as outlined beginning on page three of this document in the "General Comments" section.

New Proposals for Burden Reduction:

- A suggestion was put forth to have the TRI-ME software automatically make the calculations for quantities reported in sub-sections of Sections 5 and 6 of the Form R that are totaled up for certain sub-sections of Section 8 of the Form R.
- A suggestion was put forth to eliminate Form R data element Part I, Section 4.7, Dun and Bradstreet number. A related suggestion was to replace use of the parent company Dun and Bradstreet number in Part I, Section 5.1, with the tax identification number, which was considered easier to locate.
- An alternate reporting year option was mentioned. EPA responded that they have heard from facilities that biennial data collection is actually more complex than annual tracking, and that the no significant change option was considered a better but comparable replacement for the alternate reporting year option.
- A suggestion was put forth to reinstate the *de minimis* exemption for lead (note that the *de minimis* exemption currently applies to lead contained in stainless steel, brass, or bronze alloys) and also for all PBTs.
- A suggestion was put forth to make lead a non-PBT. This commenter indicated that several of his facilities began reporting when lead was designated as a PBT, and these facilities are typically zero release reporters.

- A suggestion was put forth to eliminate duplicate reporting of releases and other waste management quantities by facilities generating wastes and also by the receiving facilities that dispose of or otherwise manage these wastes.
- A suggestion was put forth to mandate use of the TRI-ME software. The commenter indicated that this would decrease burden and increase data quality. It was discussed that a waiver provision would be needed for facilities that may not have computers. Furthering this suggestion was the comment that one or more of the burden reduction options could be implemented coupled with a requirement for electronic submission. Another commenter indicated that electronic submission is slow and difficult with a dial-up modem. EPA noted that the regions will be making a significant effort this year to reach out to facilities that use TRI-ME, but still report via paper or diskette, and encourage electronic reporting via CDX.
- A suggestion was put forth to eliminate zero release reports.
- A suggestion was put forth to enhance the quality and distribution of EPA TRI guidance documents.
- A suggestion was put forth to eliminate the requirement to consider non-isolated intermediates towards the manufacturing threshold.
- A suggestion was put forth to use toxicity equivalencies (TEQs) for dioxin reporting. As noted above under General Comments, this is currently in process at EPA.
- A suggestion was put forth to present TRI data in greater context. As noted above under General Comments, this is currently in process at EPA.